

<b>BODY:</b>	<b>Cabinet</b>
<b>DATE:</b>	<b>13 December 2016</b>
<b>SUBJECT:</b>	<b>Housing Investment Company – joint working arrangements</b>
<b>REPORT OF:</b>	<b>Director of Service Delivery</b>
<b>Ward(s):</b>	All Wards
<b>Purpose:</b>	To seek approval for the development of a new joint housing and regeneration investment company with Lewes District Council.
<b>Contact:</b>	Ian Fitzpatrick, Director of Service Delivery, Telephone 01323 415935 or internally on extension 5935. Email: <a href="mailto:ian.fitzpatrick@eastbourne.gov.uk">ian.fitzpatrick@eastbourne.gov.uk</a>
<b>Recommendations:</b>	<ol style="list-style-type: none"> <li><b>1</b> To delegate authority to the Director of Service Delivery and the Assistant Director of Legal and Democratic Services, in consultation with the Lead Member for Housing and their counterpart at Lewes District Council to undertake work to set up a joint Lewes District Council/Eastbourne Borough Council wholly owned housing investment company (HIC).</li> <li><b>2</b> To authorise the Director of Service to procure specialist advice as necessary up to a value of £30k, this being the estimated cost of advice on setting up the joint HIC together with costs of developing the business case and investment proposals.</li> <li><b>3</b> Any investment proposals to be reported back to Cabinet for approval.</li> </ol>

---

## **1.0      Introduction**

- 1.1      The role of local authorities in shaping housing markets and meeting housing needs and aspirations has changed significantly in recent years.  
  
In addition, the ability of the council to invest in new council-owned homes in the traditional way is constrained by the caps on borrowing that apply to the Housing Revenue Account (HRA).
- 1.2      The Government has recently introduced a series of measures which will reduce income, and restrict the HRA's ability to afford the interest

and principal repayments associated with additional borrowing to fund new homes for rent or shared ownership.

- 1.3 As a result, Councils are considering how to bring forward new homes and invest in ways that do not impact adversely on the HRA.
- 1.4 The Council also recognises that there is a role to play in taking up opportunities for commercial development where this might have a regenerative effect and/or assist the council in meeting strategic housing priorities.
- 1.5 Whilst the Council has retained Right to Buy receipts it is only able to fund 30% of any new development using these funds. As the Council has no or limited resources and/or borrowing ability, it is unable to use these funds and will have to return them to central Government.
- 1.6 Establishing a joint LDC/EBC HIC would simplify the sharing of necessary officer skills in managing future projects, allow the councils to choose to share risk on larger ventures and provide a stronger financial platform for activities in new commercial areas.
- 1.7 In addition, it is possible that a new 50/50 joint venture owned HIC would allow access to Right to Buy Receipts that would otherwise have to be returned to central Government as noted above.
- 1.8 The HIC will be wholly-owned by the councils and any investment decisions would require EBC and/or LDC lending approval before development or purchase began, subject to appraisal, therefore the Council would only approve schemes it is willing to support.

## **2.0 Eastbourne Housing Investment Company (EHICL)**

- 2.1 Eastbourne Borough Council has already created a HIC: Eastbourne Housing Investment Company Limited (EHICL). This is a private company limited by shares where the Borough Council is the sole owner and shareholder. The company has been established in order to invest in both housing and business opportunities, with an initial focus upon regenerating the Devonshire ward of the Borough.
- 2.2 It is proposed that the new HIC would run alongside and separate to EHICL. The Council would consider investment routes and the best vehicle to take forward schemes as part of the viability process.
- 2.3 The HIC would be continued to be supported by a "Housing & Economic Development Partnership" (HEDP) officer team, which is a joint initiative between Eastbourne Borough Council and Eastbourne Homes Limited, and which provides development expertise that has already delivered over 100 affordable homes in Eastbourne. A programme of potential new housing is being planned that may be delivered through EHICL or a joint Lewes/Eastbourne HIC that will seek to combine commercial opportunities with strategic corporate objectives for sustainable communities and income generation.

### **3.0 Risk Management**

- 3.1 The risks and issues of a council-owned HIC will be considered within the company business plan.
- 3.2 Oversight and direction of the HIC and its activities would remain with the council as shareholder, making sure that the HIC's activities are in line with corporate priorities, policies and strategies.
- 3.3 Further work to ensure due diligence will be undertaken and reported back to Cabinet at the point that the HIC becomes active with future schemes.

### **4.0 Resource Implications**

- 4.1 The initial cost of setting up the proposed HIC, developing the business case and investment proposals is estimated to be £30,000 per authority. This can be funded from the General Fund budget for service priorities.
- 4.2 Operating with a Council owned HIC to develop and own housing as part of a programme of wider regeneration initiatives would have implications for both the HRA and General Fund. Under this route, the Council could dispose of land to the HIC and provide financial assistance to develop a mixed portfolio of housing. The financial implications would be considered as part of the future HIC's business plan and scheme appraisal. The Council would need to complete appropriate due diligence when considering any loan arrangements.
- 4.3 The HIC will be responsible for the repayment of any loans made to it by the Council(s). The Council would bear the risk of the HIC defaulting on repayment, in the event that the HIC does not perform as expected and sustains losses rather than generating surpluses. This situation could arise if, for example, there is a downturn in the property market.
- 4.4 New Homes Bonus – assuming that this Government scheme remains in place, the Council would receive additional revenue grant of £1,500 annually for 6 years for each new home which the company delivered.

### **5.0 Consultation**

- 5.1 Consultation has taken place with Lewes District Council who have resolved to undertake work to develop a joint HIC.

### **6.0 Implications for Equalities and Fairness**

- 6.1 The provision of new housing, regeneration and economic development activity is likely to be core objectives of the new company. Improving the supply of housing, enhancing neighbourhoods and generating employment and training opportunities help to reduce inequality and improve the health and wellbeing of the community.

## **7.0      Legal Implications**

- 7.1      The Council has housing powers under Part II of the 1985 Act, together with a general power of competence available under section 1 of the Localism Act 2011 which enable it to establish a joint HIC.. Whilst the latter power is broad, its use must be appropriate and reasonably justified in public law terms to be lawfully exercised.  
The Council will need to reach agreement with the new joint HIC about how any RTB retention arrangement is to work . Any financial or in-kind assistance which the Council decides to provide to the company will need to be state aid compliant..
- 7.2      A complex system of land transfer consents exists in order to protect the land held by public authorities. Detailed consideration of the processes necessary to transfer particular properties from the Council to the new joint company will be needed in order to determine which to invoke on a case by case basis, depending on whether the land is HRA land, held within the General Fund and/or disposed of at an undervalue. General consents which obviate the need to obtain specific consents from the Secretary of State will be used where available. In certain instances the value of disposal will need to be based upon a valuation prepared and signed by a qualified valuer (a member of RICS).
- 7.3      If Cabinet approves the recommended delegations then further legal advice will need to be taken and legal work carried out to ensure that any joint HIC is established in such a way as to give the two councils maximum flexibility to achieve their housing and regeneration objectives

## **8.0      Recommendations**

- 8.1      It is recommended to delegate authority to the Director of Service Delivery and the Assistant Director of Legal and Democratic Services, in consultation with the Lead Member for Housing and their counterpart at Lewes District Council to undertake work to set up a joint Lewes District Council/Eastbourne Borough Council HIC.
- 8.2      There is also a requirement to procure specialist advice as necessary. This is expected to cost up to £30k to set up up the joint HIC together with costs of developing the business case and investment proposals. It is recommended the cost of this advice is agreed by Cabinet so work can begin on the joint HIC.

**Ian Fitzpatrick**  
**Director of Service Delivery**

**Background Papers:**